

DARIEN AFFORDABLE HOUSING PLAN
Proposed Chapter 6
Strategies and Actions for Implementation
First Draft
May 12, 2022

Strategies

This chapter focuses on strategies relative to affordable housing.

Proposed Modifications to Zoning Regulations

1. Consider amending the Zoning Regulations to increase the allowed density (number of units allowed per acre) within the Zoning Regulations so that existing multi-family developments might take advantage of the reduction of required on-site parking spaces. This could be in the DBR, DCR and DMR zones. Require that some or all of the additional units be 'affordable' in accordance with Section 580 Inclusionary Zoning. In some instances where there is limited land area, the allowable Building Coverage and /or other limitations might need to be modified to permit the creation of affordable units. In many instances, the existing condominium development has been completed and the responsibilities of property ownership and maintenance has been turned over to the Home Owners Association. This might make it more difficult to coordinate the expansion project. In other instances, such as Avalon Darien at 137 Hollow Tree Ridge Road, the fact that the housing consists of rental units, means that the single owner of the entire site will have an easier opportunity to plan for, finance and construct additional units.
2. Consider creating a new land use that is permitted in the residential zones, subject to Site Plan approval from the Planning and Zoning Commission. The use would be a single affordable ancillary apartment allowed on each lot. An applicant would need to demonstrate that the site and use has adequate sewer/septic, water, setback, on-site parking, and would comply with all other aspects of the Health Code, Zoning Regulations and Building Code. Deed restrictions to comply with Section 8-30g of the Statutes would need to be filed in the Darien Land Records and annual verification by the property owner would be required.
3. Consider the creation of a new overlay or floating Affordable Housing Zone, modeled after Section 450 – Special Needs housing overly zone and Section 540 -3.7 Acre Hollow Tree Affordable Housing Zone. The intent would be to set forth the criteria and incentives for affordable housing developments so that potential developers of such housing, both public and private, could acquire and assemble the property(ies) that qualify due to land area, transit orientation, sewer, water, vehicular and pedestrian access, etc.

Amendments to Inclusionary Zoning Regulations—Section 580

1. Review Darien Zoning Regulations for assurance that all of the affordable housing units required by the Regulations are to be built and maintained in Darien. A recommendation in the WestCOG draft affordable housing plan includes the possibility that if a community lacks sufficient sewer, water, public transportation, job opportunities or other features that would be appropriate for affordable housing, then that the community could fulfill its responsibility to create affordable housing by having some of the units built in a different community. While this might be appropriate in some instances for some communities, it is not appropriate for Darien. The Darien Zoning Regulations do have provisions that allow the Commission to permit the affordable housing units to be constructed at a different

property from the main development. For example, Section 588 d does allow such off-site creation of affordable housing units, but it specifies that the alternative site must be in Darien. All of the regulations must be reviewed, and amended if necessary, to make this requirement consistent. As new provisions regarding the creation of affordable housing are added to the Regulations, they too must make it clear that the affordable units must be built within Darien.

2. Continue to implement the Inclusionary zoning requirements of Section 580 of the Darien Zoning Regulations. This section requires that any development that results in 4 or more units of housing shall have at least 14% of all of the proposed residential units be 'affordable' and in compliance with the provisions of Section 8-30g of the Connecticut General Statutes. Re-examine the requirements and incentives to determine if there is more that can be done to create more affordable housing.

Potential Modifications to Zoning Map

1. Evaluate the potential areas that are somewhat isolated neighborhoods and areas adjacent to transit facilities that could be converted from single family residential or business uses, to become affordable housing zones. The more areas that qualify for affordable housing redevelopment, the better. Specifying only a few such areas, or rezoning them without an actual proposal to redevelop them, would result in higher land acquisition costs. Rather than naming such areas in this report, it is best that the Commission discuss and agrees upon a strategy before disclosing any particular areas.
2. Work with owners of business and commercial properties and create and improve the incentives within the Darien Zoning Regulations for them to develop or redevelop their commercial properties to have business uses on the ground floor and residential uses, including affordable housing, on the upper floors in areas like downtown and Noroton Heights and Noroton business areas. Also note that the changes of the economic conditions and business practices have resulted in previous land uses, such as office parks and large office buildings being outdated and now could be redeveloped with a substantial affordable housing component.
3. Work toward the next Section 8- 30g moratorium by establishing more and more affordable housing. In order to obtain the next moratorium, Darien must establish approximately 100+/- additional affordable housing units. (NOTE: State Statutes and Regulations require that moratoria be based upon a "point" system, and not a strict number of units constructed, as certain types of units are worth more or less than one point). The moratorium is not the final goal, it is merely a measured step in the right direction. It does provide to the community a sense of security that affordable housing has been, and will be, achieved by choice rather than being forced upon them. As noted in other Chapters of this document, Darien has achieved two four-year moratoria in the past, and the next moratorium achieved will be its third. As of this writing, no other community in the State of Connecticut has achieved three moratoria.

Accessory Dwelling Units (ADUs)/Accessory Apartments

4. Draft and adopt amendments to the Darien Zoning Regulations regarding Accessory Apartments (often referred to as Accessory Dwelling Units - ADU's) as a permitted use in

the residential and business zones. Public Act 21-29, Section 6 requires that one accessory apartment be allowed as of right on each lot that contains a single family dwelling and also specifies that no such accessory apartment shall be required to be an affordable accessory apartment. There are many other provisions regarding the accessory apartment contained within Public Act 21-29. The complete text is included in Appendix _____. The Commission can adopt changes to its regulations that are not contrary to or inconsistent with the Statutes. If the regulations are not amended by January 1, 2023, then any noncompliant provisions of the regulations (in the case of the Darien Zoning Regulations – the provisions that limits one dwelling unit per lot in the single family zones and requires two on-site parking spaces per dwelling) shall be considered null and void and any application for an accessory apartment shall be acted upon based only on the provisions of the State Statutes (not the local zoning regulations). The Statute does contain an 'opt out' provision regarding accessory apartments. The process must be completed by the Planning and Zoning Commission and municipality's legislative body before January 1, 2023.

(It should be noted that allowing accessory apartments per PA 21-29 will not create any affordable housing as defined by Section 8-30g. The value of a rental unit in Darien is very high due to high demand and low supply. In theory, an accessory apartment might have a rental market value that is low enough to be 'affordable' but more likely, the rental value will be considerably higher than the limits of 8-30g. Unless the owner of the property chooses to screen the tenants to comply with the income limitations of Section 8-30g and also files a deed restriction in the Land Records regarding the use of the apartment as an affordable unit, the Statute requiring accessory apartments will not create any affordable units in Darien. Accessory Apartments as defined in PA 21-29 would create more dwelling units and thus would increase the supply of available units which would theoretically bring down the cost for someone to be a renter living in Darien. It would however, increase the cost of buying a residence in Darien because each property would have the potential of having an income generating apartment.)

5. Prepare and distribute to Darien property owners, information about the process of establishing an accessory apartment and complying with all aspects of the applicable rules and regulations.

Financing/Funding of Affordable Housing

6. Work with the Board of Selectmen to increase funding of the existing Housing Trust Fund. The primary objective would be to have sufficient funds available so that when sites where affordable housing could be developed become available, the Town would be able to acquire the land and prepare it for affordable housing. The Housing Trust Fund could also be used to maintain and redevelop existing affordable housing units. Methods to increase the Trust Fund include, but are not limited to:
 - Dedicating a portion of Zoning/Building permit fees or increasing those fees;
 - Increasing land conveyance and filing fees in Darien Land Records;
 - Appropriation by the Town in the annual budget

All of these will require action by, and coordination with, the Board of Selectmen, Board of Finance and RTM.

7. Work with the Board of Selectmen regarding the long term plan to coordinate and manage the creation, monitoring and reporting of affordable housing. Much of the responsibility now rests with the Land Use Department. Decisions need to be made whether it should remain that way or if the Town would be better served by the shifting of the responsibilities to the Darien Housing Authority, the Selectmen, a new Housing Department, or some other entity that would have the expertise and be dedicated to affordable housing.

Acquisition of Land

In Darien, one of the constraints of establishing/creating affordable housing are the land costs. Below are some recommendations regarding land acquisition—a key component of affordable housing creation.

8. Investigate the purchase of ‘surplus’ land of Connecticut DOT and any / all other State departments and or agencies for development of affordable housing. Even if the Town cannot acquire the property in fee simple, it might be possible to obtain a long term lease from the State or to work in conjunction with the State for the development or redevelopment of that land to have the dual use of the site(s) so that it could include affordable housing.
9. Investigate the purchase of ‘surplus’ land of Eversource /CL&P, Aquarion Water Company and any / all other utilities or agencies for development of affordable housing. Even if the Town cannot acquire the property in fee simple, it might be possible to obtain a long term lease from the utility or to work in conjunction with the utility for the development of or redevelopment of that land to have the dual use of the site(s) to include affordable housing.
10. Investigate potential acquisition of ‘surplus’ land of the Town and/or Board of Education. Note that Connecticut General Statute 7-131n¹ provides that if dedicated parkland is to be used for another purpose, then replacement parkland of comparable area and quality must be substituted for the land being taken. Most, if not all of Darien’s parkland under the jurisdiction of the Parks and Recreation Commission has already been dedicated, thus it would not be easy to convert it to use as affordable housing. Town land that has not been dedicated as parkland does include Highland Farm at the northern end of Middlesex Road. It is a large, fairly flat property that is not served by public water or sanitary sewers. It is currently being used for passive and active recreation purposes. There are a number of restrictions and limitations regarding the use of the site. Further investigation of those factors is needed before it could be considered for affordable housing. The Board of Education has little or no ‘surplus’ land that is known, but this matter should be investigated further so that any available land could be acquired and used for affordable housing. Much of the excess Board of Education properties need to be reserved for potential additions/alterations to the schools, and associated athletic fields, playgrounds and parking.
11. Work in conjunction with Habitat for Humanity and/or similar non-profit housing agencies to create affordable housing. This could take the form of the Town acquiring property or properties that are blighted and in need of cosmetic work and possibly some minor structural repair. If the blighted property is in need of major structure repair or if it is small structure on a sizeable property, then it might be appropriate to knock down the building and work with Habitat for Humanity or other agency to construct several affordable units on the site.

It might require variances from the Zoning Board of Appeals or amendments of the Zoning Regulations to accomplish the redevelopment of the site.

12. The Town should consider the purchase of sites with appropriate characteristics to accommodate affordable housing. The site(s) could then be conveyed to the Darien Housing Authority for implementation of affordable housing projects of a scale and character and quality that would be appropriate for the site and the surroundings. The DHA would also provide long term management and maintenance of the affordable housing, as it does now for the Heights at Darien and The Royle at Darien projects.
13. Expansion of the existing Darien Housing Authority (DHA) projects. The Darien Housing Authority owns two properties in Darien. Encourage the purchasing of property(ies) adjacent to or in close proximity to existing DHA affordable housing uses for the expansion of those developments. The management, common spaces and infrastructure of the existing facilities will need to be evaluated, but in most cases it is likely that the expansion can be accommodated more easily than creating a separate project. Funding for such land purchases could possibly come from the Affordable Housing Trust Fund (see prior recommendation).

NOTE 1: CGS 7-131n reads as follows:

Sec. 7-131n. Taking of land previously intended for use as park or for other recreational or open space purposes. If any municipality takes any land, for highway or other purposes, which land was purchased for park or other recreational or open space purposes, or for which bonds were issued for such purposes, or which had been dedicated for such purposes, such municipality shall provide comparable replacement land at least equal in value and per unit area size to the value and per unit area size of the land taken; provided before such municipality takes such land for highway or other purposes it shall hold a public hearing in addition to any public hearing required by section 13a-58 or by any other section of the general statutes or by any special act or city charter. At such public hearing and in the notice thereof, the municipality shall set forth the description of the land proposed to be taken and the proposed use of such land, any reasons for the proposed taking of the parkland rather than other land and the description of the replacement land to be provided. The municipality shall give notice of the time and place of such hearing by publication in a newspaper having a substantial circulation in such municipality, such notice to be given at least twice, at intervals of not less than two days, the first not more than fifteen days nor less than ten days and the second not less than two days before such hearing and such hearing shall be held within a period of not more than thirty and not less than fifteen days after any other public hearing required by section 13a-58 or by any other section of the general statutes. For purposes of this section “municipality” means any town, city or borough, or other political subdivision of the state.